

HOUSE No. 1589

By Mr. Hynes of Marshfield, petition of Frank M. Hynes and Garrett J. Bradley relative to low and moderate income housing. Housing.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT AMENDING THE DEFINITION OF “UNECONOMIC” IN CHAPTER 40B,
SO-CALLED.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The definition of “Uneconomic” in section 20 of
2 chapter 40B of the General Laws, as appearing in the 2000 Offi-
3 cial Edition, is hereby amended by adding the following sen-
4 tence:— Notwithstanding the foregoing, no condition or
5 regulation imposed by a board of zoning appeals shall be deemed
6 to render a low or moderate income housing project uneconomic
7 if such condition or regulation: (1) in the opinion of the zoning
8 board of appeals, imposes reasonable limitations concerning the
9 bulk and height of structures, yard sizes, lot areas, setbacks, open
10 space, parking and building coverage; and (2) in the opinion of
11 the zoning board of appeals, operates to prevent the development
12 of a parcel that is physically or environmentally unsuitable for the
13 density of development proposed.

1 SECTION 2. Said section 20 of said chapter 40B, as so
2 appearing, is hereby further amended by inserting after the word
3 “needs” in line 43 the following:— or (3) in the imposition of
4 such rules or regulations, as may be varied in whole or in part, in
5 the opinion of the zoning board of appeals, reasonably balances
6 the regional need for low or moderate income housing with a
7 municipality’s reasonable limitations concerning the bulk and
8 height of structures, yard sizes, lot areas, setbacks, open space,
9 parking and building coverage; or (4) operates to prevent the
10 development of a parcel that is, in the opinion of the zoning board

11 of appeals, physically or environmentally unsuitable for the den-
12 sity of development proposed.

1 SECTION 3. Section 23 of said chapter 40B, as so appearing, is
2 hereby amended by adding the following paragraph:—

3 No decision by a board of appeals to deny a comprehensive
4 permit shall be vacated, nor shall a decision by a board of appeals
5 to approve a comprehensive permit with conditions and require-
6 ments imposed be ordered modified, where said board of appeals
7 includes as a basis for its decision the need to deny or condition
8 said comprehensive permit due to factors relating to the bulk and
9 height of structures, yard sizes, lot areas, setbacks, open space,
10 parking and building coverage or environmental suitability of the
11 parcel or overall density of the proposed project.